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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/075,488

02/12/2002

Brian N. Tufte

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09/11/2003

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EXAMINER

NEGRON, ISMAEL

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/075,488

Applicant(s)

TUFTE, BRIAN N.

Examiner

Ismael Negron

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on July 3, 2003 has been entered. Claims 1, 3, 4, 6, 12, 17 and 18 have been amended. Claim 2 has been cancelled. Claims 23-27 have been added. Claims 1 and 3-27 are still pending in this application, with claims 1, 11, 12, 18, 23, 24, 26 and 27 being independent.
2. The previously indicated allowability of claims 2-4 (Paper 3) is withdrawn in view of the newly discovered reference(s) to Brookman (U.S. Pat. 5,337,225). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 7, 12-14, 18, 19, 23 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Brookman (U.S. Pat. 5,337,225).

Brookman discloses an illumination device having:

- **an elongated member having a cavity**, Figure 4, reference number 82;

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- **an elongated light source for being received in the cavity,**
Figure 4, reference number 74;
- **the cavity being at least partially defined by a material that is at least partially transparent,** Figure 4, reference number 86;
- **the cavity being also at least partially defined by a material that is at least substantially non-transparent,** Figure 4, reference number 84;
- **the elongated member having two legs adapted to secure the elongated member to a support member,** Figure 4, reference numbers 90 and 92;
- **the first material and the second material being integrally formed,** Figure 4 and column 3, lines 61-63;
- **the first and second material being formed separately and secured later together,** Figure 4;
- **the legs extending continuously along the length of the member,** columns 3 and 4, lines 65-67 and 1-3, respectively; and
- **the elongated member being made of a elastomeric material,** column 3, lines 61 and 62.

4. Claims 12 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Brookman (U.S. Pat. 5,337,225).

Brookman discloses an illumination device having:

- **an elongated body having an upper surface and one or more surfaces**, Figure 1;
- **an elongated light source**, Figure 1, reference number 24;
- **the elongated body having a cavity for receiving the elongated light source**, Figure 1;
- **the cavity being at least partially defined by a material that is at least partially transparent**, Figure 1, reference number 36;
- **the at least partially transparent material extending from the cavity to the upper surface of the elongated member**, Figure 1;
- **a second material that is substantially non-transparent**, Figure 1, reference number 34;
- **the elongated member further including a removable portion**, Figure 1, reference number 22;
- **the removable portion including the cavity**, Figure 1;
- **the removable portion having different elastomeric properties than the remainder of the elongated body**, inherent;
- **the elongated body being secure to a substrate by mechanical fasteners**, column 3, lines 25-31; and
- **one or more legs extending from a surface of the elongated body**, Figure 1, reference number 42.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 6, 8, 11 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brookman (U.S. Pat. 5,337,225).

Brookman discloses an illumination device having:

- **an elongated member having a cavity**, Figure 4, reference number 82;
- **an elongated light source for being received in the cavity**, Figure 4, reference number 74;
- **the cavity being at least partially defined by a material that is at least partially transparent**, Figure 4, reference number 86;
- **the cavity being also at least partially defined by a material that is at least substantially non-transparent**, Figure 4, reference number 84;
- **the elongated member having two legs adapted to secure the elongated member to a support member**, Figure 4, reference numbers 90 and 92;
- **the first material and the second material being integrally formed**, Figure 4 and column 3, lines 61-63;



- **the first and second material being formed separately and secured later together, Figure 4;**
- **the legs extending continuously along the length of the member, columns 3 and 4, lines 65-67 and 1-3, respectively;**
- **the elongated member being made of a elastomeric material, column 3, lines 61 and 62 a member having legs, Figure 1, reference number 40;**
- **the legs having a laterally extending tooth, Figure 1, reference number 42;**
- **a substrate, Figure 2, reference number 38; and**
- **the support member being secure to the substrate by the use of mechanical fasteners, column 3, lines 25-31.**

Brookman discloses all the limitations of the claims, except the elongated member including legs with teeth to secure the elongated member to a substrate using legs with laterally extending teeth, or the legs engaging the back surface of a substrate.

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to use the legs wit laterally extending teeth of Brookman's Figure 2, since the use of such structures are old and well known in the art as evidenced by Brookman. In addition, Brookman states that the support member could be fastened by any of the mechanical fastener known in the art.

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6. Claims 9, 10, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brookman (U.S. Pat. 5,337,225).

Brookman discloses an illumination device having:

- **an elongated member having a cavity**, Figure 4, reference number 82;
- **an elongated light source for being received in the cavity**, Figure 4, reference number 74;
- **the cavity being at least partially defined by a material that is at least partially transparent**, Figure 4, reference number 86;
- **the cavity being also at least partially defined by a material that is at least substantially non-transparent**, Figure 4, reference number 84;
- **the elongated member having two legs adapted to secure the elongated member to a support member**, Figure 4, reference numbers 90 and 92;
- **the first material and the second material being integrally formed**, Figure 4 and column 3, lines 61-63;
- **the first and second material being formed separately and secured later together**, Figure 4;
- **the legs extending continuously along the length of the member**, columns 3 and 4, lines 65-67 and 1-3, respectively; and

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- **the elongated member being made of an elastomeric material,**
column 3, lines 61 and 62.

Brookman discloses all the limitations of the claims, except the elongated light source being an electro luminescent wire (ELEW) or a linear emitting fiber (LEF).

The examiner takes Official Notice that the use of ELEW and LEF is old and well known in the illumination art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute an ELEW or LEF for the light source in the system of Brookman. One would have been motivated since ELEW are recognized in the illumination art to have many desirable advantages, including high efficiency, low power consumption, long life, resistance to vibrations, and low heat production, over other light sources.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brookman (U.S. Pat. 5,337,225).

Brookman discloses an illumination device having:

- **an elongated member having a cavity,** Figure 4, reference number 82;
- **an elongated light source for being received in the cavity,**
Figure 4, reference number 74;
- **the cavity being at least partially defined by a material that is at least partially transparent,** Figure 4, reference number 86;

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- **the cavity being also at least partially defined by a material that is at least substantially non-transparent, Figure 4, reference number 84;**
- **the elongated member having two legs adapted to secure the elongated member to a support member, Figure 4, reference numbers 90 and 92;**
- **the first material and the second material being integrally formed, Figure 4 and column 3, lines 61-63;**
- **the first and second material being formed separately and secured later together, Figure 4;**
- **the legs extending continuously along the length of the member, columns 3 and 4, lines 65-67 and 1-3, respectively;**
- **the elongated member being made of a elastomeric material, column 3, lines 61 and 62 a member having legs, Figure 1, reference number 40;**
- **the legs having a laterally extending tooth, Figure 1, reference number 42;**
- **a substrate, Figure 2, reference number 38; and**
- **the support member being secure to the substrate by the use of mechanical fasteners, column 3, lines 25-31.**

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Brookman discloses all the limitations of the claims, except the substrate including a material that can be initially provided in a liquid or semi-liquid state, and then cured or hardened to a more solid state around the legs.

It would have been obvious to one of ordinary skill in the art at the time the invention was made that the material used by Brookman (polymeric materials and that of the surface to which the patented structure is mounted) can be initially provided in a liquid or semi-liquid state, and then cured or hardened to a more solid state around the legs.

Relevant Prior Art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tieszen (U.S. Pat. 5,023,762) and **Hoffmann** (U.S. Pat. 6,523,986) disclose illumination devices having elongated light sources located inside elongates carrier member.

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Response to Arguments

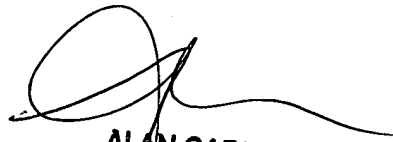
9. Applicant's arguments with respect to claims 1 and 3-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (703) 308-6086. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (703) 305-4939. The facsimile machine number for the Art Group is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.


ALAN CARIASO
PRIMARY EXAMINER

Inr

September 5, 2003